

TRUSTEE'S CONFIRMATION REPORT – 8/11/17

DEBTOR: Carlos T & Ruby Martinez

ATTORNEY: John Wieser, Esq.

CASE NO.: 16-21329-PRW

ATTORNEY FEES: \$ 2500

Additional Attorney Fees: \$

I. TRUSTEE RECOMMENDATION: _____ Plan Recommended X Plan Not Recommended

II. PLAN FILED DATE: 11/30/16 (BK ECF No.2)

A. PAYMENTS: \$ 2150 per monthly

B. REPAYMENT:

To secured creditors \$132,446 with interest \$198,384

To priority creditors \$ 7,567

To unsecured creditors \$ 3,715 100% + 4.75%

General unsecured debt \$ 3,775 (uib)

Duration of Plan 5+ years

Total Scheduled Debt \$ 97,520 incl. mortgages

C. FEASIBILITY:

Monthly Income \$7628.50 (net) \$7628.50 (gross)

Less Estimated Expenses \$5453.00

Excess for Wage Plan \$2175.50

D. OBJECTIONS to Confirmation:

1. The tasklist, filed on 1/19/17 at BK ECF No. 21, has not been completed.

2. Since the entire Wells Fargo Mortgage is being paid in full under the plan, it should be paid with the Till rate of interest;

3. The plan must address the secured proof of claim filed by Wells Fargo for furniture.

4. The plan must address the secured proof of claim filed by NYS Tax.

5. A proof of claim must be filed for the City of Rochester.

6. If all of the claims are allowed as filed the plan cannot be completed in 5 years.

E. Other comments:

☐ risk factor 3 because of prior bankruptcies

☐ need judgments removed

☐ need appraisals of real estate and personal property

☐ need certification of post petition DSO payments.

☐ other:

☐ need mortgages eliminated

☐ need motions to value collateral

☐ need proof of surrender efforts

III. TREATMENT OF SECURED CLAIMS/LEASE ARREARS:

<u>Creditor</u>	<u>Amt of Claim</u>	<u>Security Claimed</u>	<u>Perfected</u>	<u>Plan Treatment</u>	<u>Monthly Pmt</u>
NYS	\$21,261.49	Sales tax warrant	11/28/12	None	
ATF	\$ 3676.39	R/P taxes	Yes	Full	\$61.00
ATF	\$ 2840.10	R/P taxes	Yes	Full	\$48.00
ATF	\$ 1850.13	R/P taxes	Yes	Full	\$31.00
ATF	\$ 2964.82	R/P taxes	Yes	Full	\$50.00
ATF	\$ 3222.02	R/P taxes	Yes	Full	\$82.00
ATF	\$ 3709.40	R/P taxes	Yes	Full	\$62.00
ATF	\$ 2969.90	R/P taxes	Yes	Full + 18%	\$76.00
ATF	\$ 3707.75	R/P taxes	Yes	Full + 18%	\$95.00
ATF	\$ 4239.48	R/P taxes	Yes	Full + 18%	\$108.00
ATF	\$ 4845.75	R/P taxes	Yes	Full + 18%	\$124.00
City of Rochester	No claim	R/P taxes	Yes	\$2305.21 + 12%	\$51.28
City of Rochester	No claim	R/P taxes	Yes	\$2849.70 + 12%	\$63.39
Community Bank	\$ 3827.16	'01 Toyota Avalanche	Yes	Full + 5.50%	\$34.12
Monroe County Treasury	\$42,893.54	R/P taxes	Yes	Full +18%	\$1090.00
Wells Fargo Home Mtg	\$23,736.03	Mortgage	Yes	Full + 0%	\$396.39
Wells Fargo	\$ 1548.15	Furniture	?	None	

IV. SPECIAL PLAN PROVISIONS:

A. CLASSIFICATION of unsecured creditors: *Not applicable*

Class 1:	%	\$
Class 2:	%	\$
Class 3	%	\$

B. Rejection of executory contracts:

C. Other Plan Provisions:

V. BEST INTEREST TEST:

A. All assets were listed.

B. Total market value of assets: \$ 267,164

Less valid liens \$89,145

Less exempt property \$99,159

(Available for judgment liens)

Subtotal \$78,860

Less est. Chapter 7 fees \$ 7,193

C. Total available in liquidation \$71,667

D. Best interests including present value \$78,834

Less priority claims \$ 7,567

(Support \$)

E. Amount due to unsecured \$71,267

F. Amount to be distributed to unsecured creditors \$ 3,715

G. Nature of major non-exempt assets:

VI. OTHER:

- A. Debtor(s) states that the plan is proposed in good faith with intent to comply with the law.**
- B. Debtor(s) states that to the best of its knowledge there are no circumstances that would affect the ability to make the payments under the plan.**
- C. (If a business) The Trustee has investigated matters before him relative to the condition of debtor's business, and has not discovered any actionable causes concerning fraud, dishonesty, incompetence, misconduct, mismanagement or irregularities in managing said business.**
- D. Debtor requests no wage order because: _____ disability or retirement, _____ self employed, _____ risk of job loss, _____ other**
- E. Converted from Chapter 7 because: Non Applicable.**

/S/ _____
GEORGE M. REIBER, TRUSTEE